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Straub & Pokotylo 788 Shrewsbury Avenue Tinton Falls, NJ 07724			BRANDENBURG, WILLIAM A	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/721,010	<b>Applicant(s)</b> KONINGSTEIN ET AL.	
	<b>Examiner</b> WILLIAM A. BRANDENBURG	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23-26, 28-37, 60-63, 65-76 and 79-87 is/are pending in the application.
- 4a) Of the above claim(s) 81-83 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-26, 28-37, 60-63, 65-76, 79, 80 and 84-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/29/2009</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. The following is a Final Office Action in response to communications received on 12/14/2009. Claims 77-78 have been cancelled. Claims 23, 26, 28, 32, 60-61, 63, 65, 69, 75-76, 79-83 and 86-87 have been amended. No claims have been added. Therefore, claims 23-26, 28-37, 60-63, 65-76, and 79-87 are pending, however, due to the Restriction Requirement detailed below, only claims 23-26, 28-37, 60-63, 65-76, 79-80 and 84-87 have been examined and addressed below.

***Election/Restrictions***

2. The amendment filed on 12/14/2009, has **NOT** corrected the Restriction issue identified in the Office Action dated 08/14/2009. See below for detail.
3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Newly submitted claims 81-83, drawn to a computer-implemented method that includes accepting a plurality of ads, determining a similarity with the request,

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determining a score using the similarity and  
determining whether and how to serve an ad, classified  
in class 705, subclass 14.

4. Newly submitted claims 81-83 are directed towards non-elected, cancelled claims, as admitted on the record by the Applicant on page 25 of the Remarks. These claims are directed to the same subject matter that was the basis for a previous Restriction Requirement mailed on 04/08/2008 and were cancelled as part of the Applicant's Election filed on 05/09/2008. The Examiner notes that the Applicant is attempting to modify the originally elected subcombination by adding previously restricted and cancelled subject matter of the originally non-elected combination. As such, these claims are restricted from the other pending claims and will not be examined in the rejection below. As promised in the telephone interview conducted on 11/19/2009, this issue has been discussed with my Supervisors and all parties are in agreement that the Restriction Requirement is proper.

***Information Disclosure Statement***

5. The information disclosure statement (IDS) submitted on 12/29/2009 was filed after the mailing date of the Non-Final Office Action on 08/14/2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 112***

6. The amendment filed on 12/14/2009, has corrected the 35 U.S.C. 112 deficiencies identified in the Office Action dated 08/14/2009. Thus, the Examiner hereby withdraws the 35 U.S.C. 112 second paragraph rejections of claims 23 and 60 that were raised in the Office Action dated 08/14/2009.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 23-26, 60-63, 75-76 and 84-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paine et al. (US 2003/0055816 A1) (hereinafter Paine).**

8. As per Claim 23, Paine discloses a computer-implemented method (and similarly the apparatus ([0032]) of claim 60) comprising:

a) accepting, by a computer system including at least one computer on a network, ad information associated with an ad ([0086], advertiser enters bidded search terms, see also [0093], spidering specified advertiser web site, see also [0107], [0111], advertiser specifies initial list of search terms);

b) determining, by the computer system, at least one of (1) a candidate concept having an associated value and (2) a candidate concept indicator having an associated value using the accepted ad information ([0086], string matching to find additional search terms, see also [0093-95], filtering search terms from terms used by other advertisers, collaborative filtering used to identify possible search terms to recommend to advertiser, see also [0097-101], terms are scored using a

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quality metric to compile list of recommendations, quality metric serves to compile related terms and eliminate poor search terms, see also [0118], ranked list of recommendations based on ratings);

c) presenting, by the computer system, the determined at least one candidate concept and candidate concept indicator to an advertiser ([0086], generated list of additional search terms to advertiser, see also [0093], filtered search terms stored in search listing database, see also [0097-101], advertiser allowed to iteratively accept and reject words until satisfied with list of recommendations, see also [0112], advertiser presented with list);

d) determining, by the computer system, a concept representation for the ad using, at least, advertiser feedback to the presented at least one candidate concept and candidate concept indicator ([0086], advertiser selects search terms from provided list, see also [0097-101], advertiser allowed to iteratively accept and reject words until satisfied with list of recommendations) (The Examiner understands the representation to be the term selected by the advertiser);

e) adjusting, by the computer system, the value associated with the at least one of (1) a candidate concept and (2) a candidate concept indicator using the accepted advertiser

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feedback ([0086], advertiser selects search terms from provided list, see also [0100-101], based on advertiser refining list of search terms the advertiser correlation is changed and certain terms are no longer recommended to the advertiser, see also [0107-108], [0132], weighting and ratings of search terms change as the advertiser accepts and rejects terms).

Paine does not explicitly disclose

f) using, by the computer system, the adjusted value associated with the at least one of (1) a candidate concept and (2) a candidate concept indicator to control serving of the ad.

However, Paine does teach advertisers selecting and refining lists of recommended search terms for the advertiser to bid on. The recommended terms have scores and weightings associated with them and are thereby ranked accordingly and presented to the advertiser for either an accept/reject action. The weighting and ratings of search terms change as the advertiser accepts and rejects terms. The advertiser can go through many iterations until they are satisfied with the selected search terms to be bid on. These final terms are



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accepted and stored ([0086], [0097-101], [0107-108], [0132]).

Paine further teaches that a rank value is generated dynamically each time an advertiser places a bid or a search enters a search query. The rank value of an advertiser's search listing determines the placement location of the advertiser's entry in the search result list generated when a search is executed. There is a high correlation between the rank value and the bid amount submitted by the advertiser ([0054]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Paine to include using the adjusted value of the candidate concept to control serving of the ad. The rationale for this inclusion is that under a KSR rationale, common sense dictates that if an advertiser was going to go through the effort of selecting a refined list of terms to be bid on, that the advertiser would want the best, highest valued, most relevant search terms used as serving constraints. In other words, those search terms with the highest value would be those the advertiser would most want to bid on and thus control the serving of the ad (i.e. the accepted terms are used to return search results based on an appropriate search query). Based on this reasonable

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interpretation, the scores associated with the recommended search terms influence the advertiser's selection of search terms to be bid on, and those final terms control the serving of the ad. Therefore, those scores are used to control the serving of the ad.

9. As per Claim 24, Paine discloses the computer-implemented method of claim 23 (as rejected above) (and similarly the apparatus ([0032]) of claim 61). Paine further discloses further comprising:

g) determining, by the computer system, at least one of (1) a further candidate concept having an associated value and (2) a further candidate concept indicator having an associated value using advertiser feedback ([0112], advertiser selects terms from provided list, reruns collaborative filtering operation in multiple iterations, see also [0108], advertiser runs multiple iterations in accepting and rejecting terms, see also [0107-108], weighting and ratings of search terms change as the advertiser accepts and rejects terms); and

h) presenting, by the computer system, the determined at least one further candidate concept and further candidate concept indicator to the advertiser ([0112], recommended search terms presented to advertiser).

10. As per claim 25, Paine discloses the computer-implemented method of claim 23 (as rejected above) (and similarly the apparatus ([0032]) of claim 62). Paine further discloses wherein

the candidate concept indicator is a previously processed search query to which the ad would have been relevant ([0097], search terms have been used in searches in past month).

11. As per Claim 26, Paine discloses a computer-implemented method (and similarly the apparatus ([0032]) of claim 63) comprising:

a) accepting, by a computer system including at least one computer on a network, targeting criteria information associated with an ad ([0086], advertiser enters bidded search terms, see also [0093], spidering specified advertiser web site, see also [0107], [0111], advertiser specifies initial list of search terms);

b) determining, by the computer system, at least one targeting concept having an associated value using at least the accepted targeting criteria information ([0086], string matching to find additional search terms, see also [0093-95], filtering search terms from terms used by other advertisers,

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collaborative filtering used to identify possible search terms to recommend to advertiser, see also [0097-101], terms are scored using a quality metric to compile list of recommendations, quality metric serves to compile related terms and eliminate poor search terms, see also [0118], ranked list of recommendations based on ratings);

c) determining, by the computer system, a representation of the determined at least one targeting concept ([0086], advertiser selects search terms from provided list, see also [0097-101], advertiser allowed to iteratively accept and reject words until satisfied with list of recommendations) (The Examiner understands the representation to be the term selected by the advertiser);

d) associating, by the computer system, the determined representation with the ad ([0100-101], search terms associated with advertiser);

e) adjusting, by the computer system, the value associated with the at least one targeting concept using at least information from other ads using the same or similar targeting criteria information ([0097-101], advertiser refines search terms, similarity derived from advertiser comparison, based on similarity change recommendations will change);

f) storing, by the computer system, the adjusted value in association with the at least one targeting concept and in association with the ad ([0086], advertiser selects search terms from provided list, see also [0100-101], based on advertiser refining list of search terms the advertiser correlation is changed and certain terms are no longer recommended to the advertiser, see also [0107-108], [0132], weighting and ratings of search terms change as the advertiser accepts and rejects terms, see also [0112], once advertiser is satisfied with accepted terms the terms are stored).

Paine does not explicitly disclose

g) using, by the computer system, the adjusted value stored in association with the at least one targeting concept and in association with the ad to control serving of the ad.

However, Paine does teach advertisers selecting and refining lists of recommended search terms for the advertiser to bid on. The recommended terms have scores and weightings associated with them and are thereby ranked accordingly and presented to the advertiser for either an accept/reject action. The weighting and ratings of search terms change as the advertiser accepts and rejects terms. The advertiser can

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go through many iterations until they are satisfied with the selected search terms to be bid on. These final terms are accepted and stored ([0086], [0097-101], [0107-108], [0132]). Paine further teaches that a rank value is generated dynamically each time an advertiser places a bid or a search enters a search query. The rank value of an advertiser's search listing determines the placement location of the advertiser's entry in the search result list generated when a search is executed. There is a high correlation between the rank value and the bid amount submitted by the advertiser ([0054]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Paine to include using the adjusted value of the candidate concept to control serving of the ad. The rationale for this inclusion is that under a KSR rationale, common sense dictates that if an advertiser was going to go through the effort of selecting a refined list of terms to be bid on, that the advertiser would want the best, highest valued, most relevant search terms used as serving constraints. In other words, those search terms with the highest value would be those the advertiser would most want to bid on and thus control the serving of the ad (i.e. the

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accepted terms are used to return search results based on an appropriate search query). Based on this reasonable interpretation, the scores associated with the recommended search terms influence the advertiser's selection of search terms to be bid on, and those final terms control the serving of the ad. Therefore, those scores are used to control the serving of the ad.

12. As per Claim 75, Paine discloses the computer-implemented method of claim 23 (as rejected above). Paine further discloses further comprising:

g) using the determined concept representation for the ad to determine a similarity of the ad to a request for ads ([0085-86], generated list of search terms relevant to advertiser content, advertiser selects terms, see also [0093], storing in a search listing database search listings for the advertiser, the search listings formed with the filtered search terms, see also [0073], search results returned in accordance with search query input).

13. As per Claim 76, Paine discloses the computer-implemented method of claim 23 (as rejected above). Paine further discloses

wherein the concept representation includes a plurality of concepts, each having a value ([0085-86], generated list of search terms relevant to advertiser content, advertiser selects terms, see also [0089], advertiser's selected search terms have corresponding ranks).

14. As per claim 84, Paine discloses the computer-implemented method of claim 23 (as rejected above). Paine further discloses wherein

the at least one of (1) a candidate concept and (2) a candidate concept indicator is a representation of meaning that is determined by analyzing a sequence of at least one of (A) word searches and (B) user actions as the result of word searches ([0097], [0113], records every term or phrase that has been used as a search term in the past month, terms scored via a quality metric to compile recommendations list) and

wherein the at least one of (1) a candidate concept and (2) a candidate concept indicator includes context information ([0097], [0113], records every term or phrase that has been used as a search term in the past month, terms scored via a quality metric to compile recommendations list, (e.g. phrase "tropical fish store", program finds six terms "tropical", "fish", "store", "tropical fish", "fish store" and "tropical



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fish store")) (The Examiner understands these terms include context information).

15. As per claim 85, Paine discloses the computer-implemented method of claim 26 (as rejected above). Paine further discloses wherein

the targeting concept is a representation of meaning that is determined by analyzing a sequence of at least one of (A) word searches and (B) user actions as the result of word searches ([0097], [0113], records every term or phrase that has been used as a search term in the past month, terms scored via a quality metric to compile recommendations list) and

wherein the targeting concept include context information ([0097], [0113], records every term or phrase that has been used as a search term in the past month, terms scored via a quality metric to compile recommendations list, (e.g. phrase "tropical fish store", program finds six terms "tropical", "fish", "store", "tropical fish", "fish store" and "tropical fish store")) (The Examiner understands these terms include context information).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

16. **Claims 28-37, 65-74, 79-80 and 86-87 are rejected under 35 U.S.C. 102(e) as being anticipated by Meisel et al. (US 7,035,812 B2) (hereinafter Meisel).**

17. As per Claim 28, Meisel discloses a computer-implemented method (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 65) for determining concepts of a request, the method comprising:

a) accepting, by a computer system including at least one computer on a network, request information (column 9, lines 55-56, search terms entered by user);

b) determining, by the computer system, at least one concept having an associated value using the request

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information, the at least one concept including context information, and wherein the value associated with the concept is determined based on the similarity between the determined concept and the request information (column 9, lines 55-56, generates list of hyperlinks relevant and corresponding to search terms entered, see also column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines placement location in search result list when a search is executed on a corresponding search term, rank value is dependent on relevance measures) (The Examiner understands that a search term entered in and of itself has context information associated with it. Thus, returning results to the user based on the search request is in fact determining contextual concepts as claimed.);

c) generating, by the computer system, a representation of the determined at least one concept, wherein the value associated with the determined at least one concept in the generated representation is adjusted using performance information of advertisements that have been served pursuant to the concept (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-

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59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing); and

d) storing, by the computer system, the adjusted value in association with the at least one concept (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-25, advertisers able to track performance of targeted market segments via subaccounts) (The Examiner understands that based on the performance of search listings served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored).

18. As per claim 29, Meisel discloses the computer-implemented method of claim 28 (as rejected above) (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 66). Meisel further discloses wherein

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the at least one concept includes a "'no concept" concept (column 9, lines 48-52, keywords entered by user as search query).

19. As per claim 30, Meisel discloses the computer-implemented method of claim 28 (as rejected above) (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 67). Meisel further discloses wherein

the performance information is advertisement selection information (column 10, lines 51-66, click-through action is recorded via advertiser account).

20. As per claim 31, Meisel discloses the computer-implemented method of claim 28 (as rejected above) (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 68). Meisel further discloses wherein

the performance information is conversion information (column 11, lines 45-55, user performs action on advertiser website after click-through).

21. As per Claim 32, Meisel discloses a computer-implemented method (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 69) for adjusting a value associated

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with a concept relative to a request, the concept including context information, wherein the value associated with the concept is determined based on the similarity between the determined concept and the request information (column 9, lines 55-56, generates list of hyperlinks relevant and corresponding to search terms entered, see also column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines placement location in search result list when a search is executed on a corresponding search term, rank value is dependent on relevance measures) (The Examiner understands that a search term entered in and of itself has context information associated with it. Thus, returning results to the user based on the search request is in fact determining contextual concepts as claimed.), the method comprising:

a) tracking, by a computer system including at least one computer on a network, performance information of advertisements served pursuant to the concept (column 10, lines 41-67 - column 11, lines 1-67, performance actions recorded, see also column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-

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59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing);

b) adjusting, by the computer system, the value associated with the concept relative to the request using the tracked performance information (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing); and

c) storing, by the computer system, the adjusted value in association with the concept relative to the request (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-25, advertisers able to track performance of targeted market segments via subaccounts) (The Examiner understands that based on the performance of search listings

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served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored).

22. As per claim 33, Meisel discloses the computer-implemented method of claim 32 (as rejected above) (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 70). Meisel further discloses wherein

adjusting the value associated with the concept relative to the request includes increasing the value associated with the concept relative to the request if the tracked performance information is above a threshold performance level (column 16, lines 9-64, comparative attractiveness factor distinguishes between a listing of less than average attractiveness for which the factor is less than one, a listing of typical or average attractiveness for which the factor is one and a listing of unusual attractiveness for the factor is greater than one, market value of listing adjusted according to this comparative attractiveness factor, see also column 17, lines 56-67 - column 18, lines 1-13, intrinsic CTR value and market bid value calculated, listing that is more attractive than average (i.e. comparative attractiveness factor) results in



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higher ranking). (The Examiner understands this comparative attractiveness factor of one to be the threshold value and the ranking of the listing is adjusted according to whether its factor is higher or lower than one.)

23. As per claim 34, Meisel discloses the computer-implemented method of claim 32 (as rejected above) (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 71). Meisel further discloses wherein

adjusting the value associated with the concept relative to the request includes decreasing the value associated with the concept relative to the request if the tracked performance information is below a threshold performance level (column 16, lines 9-64, comparative attractiveness factor distinguishes between a listing of less than average attractiveness for which the factor is less than one, a listing of typical or average attractiveness for which the factor is one and a listing of unusual attractiveness for the factor is greater than one, market value of listing adjusted according to this comparative attractiveness factor, see also column 17, lines 56-67 - column 18, lines 1-13, intrinsic CTR value and market bid value calculated, listing that is less attractive than average results in lower ranking). (The Examiner understands

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this comparative attractiveness factor of one to be the threshold value and the ranking of the listing is adjusted according to whether its factor is higher or lower than one.)

24. As per claim 35, Meisel discloses the computer-implemented method of claim 32 (as rejected above) (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 72). Meisel further discloses wherein

adjusting the value associated with the concept relative to the request uses the tracked performance of the concept relative to tracked performance of at least one other concept (column 17, lines 4-19, intrinsic CTR value calculated for each search term, groups or categories of search terms, or across all search terms).

25. As per claim 36, Meisel discloses the computer-implemented method of claim 32 (as rejected above) (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 73). Meisel further discloses wherein

the performance information is advertisement selection information (column 10, lines 51-66, click-through action is recorded via advertiser account).

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26. As per claim 37, Meisel discloses the computer-implemented method of claim 32 (as rejected above) (and similarly the apparatus (col. 8, line 34 - col. 10, line 32) of claim 74). Meisel further discloses wherein

the performance information is conversion information (column 11, lines 45-55, user performs action on advertiser website after click-through).

27. As per Claim 79, Meisel discloses the computer-implemented method of claim 28 (as rejected above). Meisel further discloses further comprising:

e) using the adjusted value stored in association with the at least one concept to control serving of at least one ad (column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines placement location in search result list when a search is executed on a corresponding search term, see also column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-

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25, advertisers able to track performance of targeted market segments via subaccounts) (The Examiner understands that based on the performance of search listings served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored. Furthermore, the Examiner understands that the performance impacts the ranking of a listing. As such, when search queries are performed, the search results list is returned according to said rankings. As such, the serving of the listings is control by the ranking value (i.e. adjusted value based on performance).

28. As per Claim 80, Meisel discloses the computer-implemented method of claim 32 (as rejected above). Meisel further discloses further comprising:

d) using the adjusted value stored in association with the concept relative to the request to control serving of at least one ad (column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines placement location in search result list when a search is executed on a corresponding search term, see also column 16, line 9 - column 18, line 13, performance information in the form of click-

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through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-25, advertisers able to track performance of targeted market segments via subaccounts) (The Examiner understands that based on the performance of search listings served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored. Furthermore, the Examiner understands that the performance impacts the ranking of a listing. As such, when search queries are performed, the search results list is returned according to said rankings. As such, the serving of the listings is control by the ranking value (i.e. adjusted value based on performance).

29. As per Claim 86, Meisel discloses the computer-implemented method of claim 28 (as rejected above). Meisel further discloses

wherein the concept is a representation of meaning that is determined by analyzing a sequence of at least one of (A) word

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searches and (B) user actions as the result of word searches (column 9, lines 43-60, keyword queries enter via search engine, search engine generates list of hyperlinks to documents that contain information relevant to corresponding search terms entered).

30. As per Claim 87, Meisel discloses the computer-implemented method of claim 32 (as rejected above). Meisel further discloses

wherein the concept is a representation of meaning that is determined by analyzing a sequence of at least one of (A) word searches and (B) user actions as the result of word searches (column 9, lines 43-60, keyword queries enter via search engine, search engine generates list of hyperlinks to documents that contain information relevant to corresponding search terms entered).

### ***Response to Arguments***

31. Applicant's arguments filed 12/14/2009 have been fully considered but they are not persuasive.

32. In the remarks, the Applicant argues the following with respect to claims 23 and 60, as amended:

*(a) the Paine publication does not teach that the adjusted value associated with the at least one of (1) a candidate concept and (2) a candidate concept indicator is used to control serving of the ad; and*

*(2) Although the Examiner "understands that the terms finally accepted by the advertiser control the serving of the ad", nowhere does the Paine publication describe using the adjusted weights of the finally accepted terms for anything other than providing a list of search term recommendations to an advertiser.*

In response to these arguments, the Examiner respectfully disagrees.

33. The Examiner notes that the prior art obviousness rejection above fully addresses arguments (a) and (b). The Examiner further notes that the claims as currently written do not require that the adjusted values actually "serve" the ad, nor would that be possible or logical to do. All that is required is that the adjusted values are "used" to control the serving of the ad. Under the broadest reasonable interpretation, this

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simply requires that the adjusted values play a role in some manner in serving the ad. This can be found in the Paine publication.

As stated in the prior art rejection above, common sense dictates that if an advertiser was going to go through the effort of selecting a refined list of terms to be bid on, that the advertiser would want the best, highest valued, most relevant search terms used as serving constraints. In other words, those search terms with the highest value would be those the advertiser would most want to bid on and thus control the serving of the ad (i.e. the accepted terms are used to return search results based on an appropriate search query). Based on this reasonable interpretation, the scores associated with the recommended search terms influence the advertiser's selection of search terms to be bid on, and those final terms control the serving of the ad. Therefore, those scores are used to control the serving of the ad.

34. In the remarks, the Applicant argues the following with respect to claims 28 and 65, as amended:

*(a) determining hyperlinks in response to a search query in the Meisel patent does not teach determining at least one*



*concept having an associated value using the request information.*

In response to these arguments, the Examiner respectfully disagrees.

35. As per argument (a), the Examiner notes page 29 of the Applicant's remarks. The Applicant states that "a concept" is "a representation of meaning that can be determined from a word and/or by analyzing a sequence of word searches and/or actions as the result of word searches". (*emphasis added*) Based on this disclosure, a concept can be gathered from a single word. The Examiner understands that a single word in and of itself has context information associated with it. For example, if a user searches the term "car", the contextual content gathered by the search query system is that the user wants advertised results returned relevant to the concept of "cars". This is exactly what is disclosed in Meisel (column 9, lines 55-56, generates list of hyperlinks relevant and corresponding to search terms entered, see also column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines placement location in search result list when a search is executed on a corresponding search term, rank value is dependent on relevance measures). As such, Meisel

indeed discloses determining at least one concept having an associated value using the request information.

The Examiner appreciates the example provided by the Applicant of a search query "jaguar", which can have various meanings depending on the context in which it is used. However, the Examiner notes that the claim as currently written does not require the request information (i.e. search term enter during a search query) to have more than one context. As such, this specific argument is considered non-persuasive.

### ***Conclusion***

36. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory

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period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM A. BRANDENBURG whose telephone number is (571)270-5488. The examiner can normally be reached on Monday-Thursday 6:30 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. A. B./  
Examiner, Art Unit 3622

/John Van Bramer/  
John Van Bramer  
Primary Examiner, Art Unit 3622